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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,832	07/21/2000	ANDREAS GIEFER	67526	2069

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EXAMINER

LUONG, VINH

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

1. The Amendment filed after allowance of all claims filed on May 20, 2005 is treated in a manner similar to amendment after final rejection. See MPEP 714.14.

2. The reply filed on May 20, 2005 fails to place this application in condition for allowance.

3. The period for reply expires on the date set forth in the *Ex parte Quayle* action.

EXTENSION OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

4. The proposed amendment(s) filed after an *Ex parte Quayle* action will not be entered because:

(a) They raise new issues that would require further consideration (see NOTE below); and/or

(b) They raise the issue of new matter (see NOTE below).

NOTE: (a) The proposed amendments require further consideration, such as, a new objection to the drawings and/or the specification. For example, Applicant stated in the replacement paragraph on page 6 of the specification: "[t]he selector lever 8 is movable in a first direction 19, and in a second direction 20." The new objection to the drawings and/or the specification is necessary because the proposed Fig. 4 does not show the referential numeral 20. See 37 CFR 1.84(p)(5). In addition, the replacement drawings filed on May 20, 2005 fail to comply with 37 CFR 1.84 or 1.152. See Form PTO-948 attached. Therefore, the replacement drawings of the amendment require further objections under 37 CFR 1.84 or 1.152.

(b) The proposed amendments in the specification and in the replacement sheets of drawings raise the issue of new matter.

First, the new description, such as, "a selector lever 8 connected to kinematics 17, which

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is in turn connected to a transmission 18" in the instant Amendment introduces new matter. The original specification does not disclose that the lever 8 is connected to the kinematics 17. In fact, the original disclosure (claim 1) implies that the lever 8 may or may not be connected to the kinematics 17.

Second, Applicant's instant amendment in the specification is incorporated by the amendment filed on December 26, 2001. However, the amendment filed on December 26, 2001 introduces new matter, such as, the elastic portion 12 as shown in corrected Fig. 3, the Hall sensors 14 and permanent magnets 13 as shown in corrected Fig. 4, and the bracket 15 as shown in corrected Fig. 7. Applicant contends, *inter alia*, that the Board of Appeals has decided that the specification properly describes an elastic portion, especially to the effect that a person of ordinary skill in the art could make and use an elastic portion. The Examiner respectfully submits that the Board did not decide whether the elastic portion as described in the specification and shown in Fig. 3 *after the filing date* is new matter or not. In fact, the Board pointed out to the Applicant that issues 4-6 raised on pages 18-22 of the brief were related to petitionable matters and not to any appealable matter. See page 3 of the decision on December 9, 2004. Applicant has not filed the petition regarding these issues, therefore, these issues still stand.

Third, the replacement sheets of drawings introduce new matter, such as, (a) the size, shape, and location of the bracket 15 as shown in corrected Fig. 7; and (b) the size, shape, and location of the Hall sensor 14 and permanent magnets 13 as shown in corrected Fig. 4. See 35 USC 113 and 37 CFR 1.81(d).



Vinh T. Luong  
Primary Examiner